

EXHIBIT 5

Christopher Markos

From: Elizabeth L. Kramer <ekramer@laverylaw.com>
Sent: Wednesday, April 20, 2022 5:03 PM
To: Christopher Markos; Hull, Kandice
Cc: Cathleen A. Sheaffer; jessicdavi@pa.gov; Chris Gerber (cpgerber@sianalaw.com); Boynton, Alan; rich@raiderslaw.com; Carfley, Stephanie; Connie E. Henderson (cehenderson@sianalaw.com); Frank J. Lavery, Jr.; Aimee Paukovits; Mindy S. Kushner
Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Remaining Depositions

Chris,

The most recent TigerSwan designee notice is dated from January 12th correct? I think it should be ok, but let me confirm with Frank.

For the notice directed at Robert Rice, I will be in touch about more particulars, but in general we are going to want to limit the scope of the production included in the subpoena. Accordingly, we will probably need a new notice.

Thanks,

Elizabeth L. Kramer, Esquire

Lavery Law

225 Market Street, Suite 304

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Harrisburg, PA 17108

Phone: 717.233.6633

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From: Christopher Markos [mailto:cmarkos@williamscedar.com]

Sent: Wednesday, April 20, 2022 3:15 PM

To: Hull, Kandice

Cc: Elizabeth L. Kramer; Cathleen A. Sheaffer; jessicdavi@pa.gov; Chris Gerber (cpgerber@sianalaw.com); Boynton, Alan; rich@raiderslaw.com; Carfley, Stephanie; Connie E. Henderson (cehenderson@sianalaw.com); Frank J. Lavery, Jr.; Aimee Paukovits; Mindy S. Kushner

Subject: Re: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Remaining Depositions

For Rice, do you need me to send a new notice? I plan on videotaping it, which I don't think the subpoena reflected. And let me know if the most recent TigerSwan 30b6 notice is acceptable - I believe it already reflects our agreed upon scope and the judge's limitation.

Christopher Markos, Esq.

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On Apr 20, 2022, at 3:10 PM, Hull, Kandice <KHull@mcneeslaw.com> wrote:

I'll tell Mr. Recknagel to plan for 1:00 pm.

Please let me know if Borrer is the designee or if we need to schedule that on a separate date.

Thanks.

Kandice

Kandice K. Hull
McNees Wallace & Nurick LLC
717-237-5452

From: Christopher Markos <cmarkos@williamscedar.com>

Sent: Wednesday, April 20, 2022 1:43 PM

To: Elizabeth L. Kramer <ekramer@laverylaw.com>; Hull, Kandice <KHull@mcneeslaw.com>

Cc: Cathleen A. Sheaffer <CSheaffer@laverylaw.com>; jessicdavi@pa.gov; Chris Gerber (cpgerber@sianalaw.com) <cpgerber@sianalaw.com>; Boynton, Alan <ABoynton@mcneeslaw.com>; rich@raiderslaw.com; lbedell@attorneygeneral.gov; Carfley, Stephanie <SCarfley@mcneeslaw.com>; Connie E. Henderson (cehenderson@sianalaw.com) <cehenderson@sianalaw.com>; Frank J. Lavery, Jr. <flavery@laverylaw.com>; Aimee Paukovits <apaukovits@laverylaw.com>; Mindy S. Kushner <MKushner@laverylaw.com>

Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Remaining Depositions

[EXTERNAL]

I thought Borrer was the corporate designee?

For the 13th, I'm flexible. I will defer to you if Recknagel or Sweeney need an accommodation for timing. Otherwise I think I can do Ornoski and Sweeney in time to take a lunch break, then finish with Recknagel (1ish?)

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NOTE OUR NEW ADDRESS

From: Elizabeth L. Kramer <ekramer@laverylaw.com>
Sent: Wednesday, April 20, 2022 1:41 PM
To: Hull, Kandice <KHull@mcneeslaw.com>; Christopher Markos <cmarkos@williamscedar.com>
Cc: Cathleen A. Sheaffer <CSheaffer@laverylaw.com>; jessicdavi@pa.gov; Chris Gerber (cpgerber@sianalaw.com) <cpgerber@sianalaw.com>; Boynton, Alan <ABoynton@mcneeslaw.com>; rich@raiderslaw.com; lbedell@attorneygeneral.gov; Carfley, Stephanie <SCarfley@mcneeslaw.com>; Connie E. Henderson (cehenderson@sianalaw.com) <cehenderson@sianalaw.com>; Frank J. Lavery, Jr. <flavery@laverylaw.com>; Aimee Paukovits <apaukovits@laverylaw.com>; Mindy S. Kushner <MKushner@laverylaw.com>
Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Remaining Depositions

Kandice,

My understanding is that May 9th is for Chad McGinty and Derek Borrer, not the corporate designee.

Also, for the depos on the 13th, I believe we decided that at least Ornoski's deposition will start at 9.

Thanks,

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Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Remaining Depositions

All,

I would like to confirm the remaining deposition schedule. What I have is:

May 2 – conclusion of Elise Gerhart (dependent upon production of expert report)

May 5 – Robert Rice

May 9 – TigerSwan Corporate Designee

May 13 – Ornoski, Sweeney, Recknagel - **can we pick a start time for each?**

Is there anyone else we need to schedule? I have several days on hold on my calendar that I would like to release.

Thanks.

Kandice

Kandice K. Hull
McNees Wallace & Nurick LLC
717-237-5452

From: Christopher Markos <cmarkos@williamscedar.com>
Sent: Wednesday, April 20, 2022 8:34 AM
To: Elizabeth L. Kramer <ekramer@laverylaw.com>
Cc: Cathleen A. Sheaffer <CSheaffer@laverylaw.com>; jessicdavi@pa.gov; Hull, Kandice <KHull@mcneeslaw.com>; Chris Gerber (cpgerber@sianalaw.com) <cpgerber@sianalaw.com>; Boynton, Alan <ABoynton@mcneeslaw.com>; rich@raiderslaw.com; lbedell@attorneygeneral.gov; Carfley, Stephanie <SCarfley@mcneeslaw.com>; Connie E. Henderson (cehenderson@sianalaw.com) <cehenderson@sianalaw.com>; Frank J. Lavery, Jr. <flavery@laverylaw.com>; Aimee Paukovits <apaukovits@laverylaw.com>; Mindy S. Kushner <MKushner@laverylaw.com>
Subject: Re: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Defendant TigerSwan's Responses to Plaintiff's 2nd Set of Requests for Production of Documents

[EXTERNAL]

Is there any update on whether you will agree to produce the document containing the NDA?

Christopher Markos, Esq.

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On Apr 14, 2022, at 9:46 AM, Elizabeth L. Kramer <ekramer@laverylaw.com> wrote:

Chris,

I disagree with your position on the relevance of the NDA and characterization of the facts in this case, but I will discuss this further with my client and will be in touch.

Otherwise, can you please send me the new discovery requests in Word documents?

Thanks,

Elizabeth L. Kramer, Esquire

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Sent: Wednesday, April 13, 2022 7:19 PM
To: Elizabeth L. Kramer
Cc: Cathleen A. Sheaffer; jessicdavi@pa.gov; khull@mcneeslaw.com; Chris Gerber (cpgerber@sianalaw.com); Boynton, Alan (ABoynton@mcneeslaw.com); rich@raiderslaw.com; lbedell@attorneygeneral.gov; Carfley, Stephanie (SCarfley@mcneeslaw.com); Connie E. Henderson (cehenderson@sianalaw.com); Frank J. Lavery, Jr.; Aimee Paukovits; Mindy S. Kushner
Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Defendant TigerSwan's Responses to Plaintiff's 2nd Set of Requests for Production of Documents

Please disregard the earlier RPDs. See amended version attached hereto.

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[NOTE OUR NEW ADDRESS](#)

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To: 'Elizabeth L. Kramer' <ekramer@laverylaw.com>
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Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Defendant TigerSwan's Responses to Plaintiff's 2nd Set of Requests for Production of Documents

Please see the attached discovery requests directed to TigerSwan.

I maintain that any document memorializing TigerSwan and Nick Johnson's relationship that was contemporaneous with the time when content was posted to PA Progress is both relevant and discoverable, and merely lacking a reference to ME2 would not except such a document especially if its terms were of general applicability, but I am willing to accept the document with a confidential or even AEO designation, if that will permit us to avoid motion practice. Please let me know your response, so that I may expeditiously bring this matter to the Court's attention for resolution if I must.

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NOTE OUR NEW ADDRESS

From: Elizabeth L. Kramer <ekramer@laverylaw.com>
Sent: Wednesday, April 13, 2022 12:13 PM
To: Christopher Markos <cmarkos@williamscedar.com>
Cc: Cathleen A. Sheaffer <CSheaffer@laverylaw.com>; jessicdavi@pa.gov;
khull@mcneeslaw.com; Chris Gerber (cpgerber@sianalaw.com)
<cpgerber@sianalaw.com>; Boynton, Alan (ABoynton@mcneeslaw.com)
<ABoynton@mcneeslaw.com>; rich@raiderslaw.com; lbedell@attorneygeneral.gov;
Carfley, Stephanie (SCarfley@mcneeslaw.com) <SCarfley@mcneeslaw.com>; Connie E.
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Lavery, Jr. <flavery@laverylaw.com>; Aimee Paukovits <apaukovits@laverylaw.com>;
Mindy S. Kushner <MKushner@laverylaw.com>
Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Defendant
TigerSwan's Responses to Plaintiff's 2nd Set of Requests for Production of Documents

Chris,

We do not feel that the ME2 scope limitation is improper in light of the Order issued by Judge Kane in this case. It is our client's interpretation of the agreement that does exist that the agreement did not prevent his deposition testimony and does not exclude Johnson from speaking about work he performed on ME2. There also was no agreement entered into between TigerSwan and Nick Johnson specifically related to work he performed on ME2. Again, it remains TigerSwan's position that it was not involved in the work that Johnson performed as he was not supervised by TigerSwan employees and did not receive direction from them. Robert Rice was not and is not an employee of TigerSwan. Also, Johnson himself testified that he never had a contract with TigerSwan pertaining to any social media work he performed concerning the Gerharts.

Accordingly, any agreement between TigerSwan and Johnson has no relevance to this case. If you can articulate why it would be, we will discuss this further with our client.

Thanks,

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From: Christopher Markos [<mailto:cmarkos@williamscedar.com>]
Sent: Wednesday, April 13, 2022 11:55 AM
To: Elizabeth L. Kramer
Cc: Cathleen A. Sheaffer; jessicdavi@pa.gov; khull@mcneeslaw.com; Chris Gerber (cpgerber@sianalaw.com); Boynton, Alan (ABoynton@mcneeslaw.com); rich@raiderslaw.com; lbedell@attorneygeneral.gov; Carfley, Stephanie (SCarfley@mcneeslaw.com); Connie E. Henderson (cehenderson@sianalaw.com); Frank J. Lavery, Jr.; Aimee Paukovits; Mindy S. Kushner
Subject: Re: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Defendant TigerSwan's Responses to Plaintiff's 2nd Set of Requests for Production of Documents

The requests are clear, but even accepting your position that #3 is "ambiguous," #4 is plainly not. It asks if TigerSwan had an agreement with Nick Johnson that contained certain terms or obligations. The deficiency of the response to #4 is it's limitation to ME2.

I feel obliged to add that Frank announced at the beginning of Nick Johnson's deposition - before going on the record - that there was an agreement between Johnson and TigerSwan, but that it would not limit his ability to testify that day. I think we would all benefit from putting this issue to bed now.

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On Apr 13, 2022, at 11:25 AM, Elizabeth L. Kramer <ekramer@laverylaw.com> wrote:

Chris,

I don't think that is necessarily what the Request is asking. It is phrased in a way that it is based off Nick Johnson's deposition testimony. I see no reason at this point to revise our client's response to the request; however, as you have indicated that you are going to be serving additional discovery requests on TigerSwan, I would suggest clarifying this request in those forthcoming requests if you do not feel that our response gets at what you were seeking to ask for.

Thanks,

Elizabeth L. Kramer, Esquire

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From: Christopher Markos [<mailto:cmarkos@williamscedar.com>]

Sent: Monday, April 11, 2022 4:13 PM

To: Elizabeth L. Kramer; Cathleen A. Sheaffer; jessicdavi@pa.gov; KHull@mcneeslaw.com; Chris Gerber (cpgerber@sianalaw.com); Boynton, Alan (ABoynton@mcneeslaw.com); rich@raiderslaw.com; lbedell@attorneygeneral.gov; Carfley, Stephanie

(SCarfley@mcneeslaw.com); Connie E. Henderson
(cehenderson@sianalaw.com)

Cc: Frank J. Lavery, Jr.; Aimee Paukovits; Mindy S. Kushner

Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. -
Defendant TigerSwan's Responses to Plaintiff's 2nd Set of Requests for
Production of Documents

If your response is that, without qualification, there is no agreement,
then I've misunderstood. If that's the case, please confirm, and no
further discussion or action would be necessary.

Christopher Markos, Esq.

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[NOTE OUR NEW ADDRESS](#)

From: Christopher Markos

Sent: Monday, April 11, 2022 3:54 PM

To: 'Elizabeth L. Kramer' <ekramer@laverylaw.com>; Cathleen A.

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KHull@mcneeslaw.com; Chris Gerber (cpgerber@sianalaw.com)

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Cc: Frank J. Lavery, Jr. <flavery@laverylaw.com>; Aimee Paukovits

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Defendant TigerSwan's Responses to Plaintiff's 2nd Set of Requests for
Production of Documents

I'm taking issue with the qualification that there is no document "that
would pertain to any alleged work Nick Johnson performed in relation
to the Mariner East II Pipeline." That was a limitation you supplied, not
from the request, and, for the reasons I've already stated, unwarranted
since the existence of the agreement does not seek information about
"conduct concerning pipeline projects in other states that are wholly
unrelated to the Mariner 2 East pipeline," but rather the
employment/agency relationship between the two defendants.

Christopher Markos, Esq.

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[NOTE OUR NEW ADDRESS](#)

From: Elizabeth L. Kramer <ekramer@laverylaw.com>
Sent: Monday, April 11, 2022 3:51 PM
To: Christopher Markos <cmarkos@williamscedar.com>; Cathleen A. Sheaffer <CSheaffer@laverylaw.com>; jessicdavi@pa.gov; KHull@mcneeslaw.com; Chris Gerber (cpgerber@sianalaw.com) <cpgerber@sianalaw.com>; Boynton, Alan (ABoynton@mcneeslaw.com) <ABoynton@mcneeslaw.com>; rich@raiderslaw.com; lbedell@attorneygeneral.gov; Carfley, Stephanie (SCarfley@mcneeslaw.com) <SCarfley@mcneeslaw.com>; Connie E. Henderson (cehenderson@sianalaw.com) <cehenderson@sianalaw.com>
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Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Defendant TigerSwan's Responses to Plaintiff's 2nd Set of Requests for Production of Documents

Chris,

Request No. 3 asks us to guess or interpret Nick Johnson's state of mind in order to produce documents. We cannot know what he was thinking. However, it is our position that that no such agreement between TigerSwan and Nick Johnson exists that would prevent Nick Johnson from testifying as to the questions he was posed with on the pages referenced in the request. Therefore, our answer is none and we even clarified that there is no Non-Disclosure Agreement between Defendant TigerSwan and Defendant Nick Johnson that would pertain to any alleged work Nick Johnson performed in relation to the Mariner East II Pipeline. That answer ties into our response to Request No. 4.

Therefore, I am confused as to what else you are looking for?

Thanks,

Elizabeth L. Kramer, Esquire

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Cc: Frank J. Lavery, Jr.; Elizabeth L. Kramer; Aimee Paukovits; Mindy S. Kushner
Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. - Defendant TigerSwan's Responses to Plaintiff's 2nd Set of Requests for Production of Documents

With respect to your answers #s 3-4, I will simply refer to my letter from earlier today addressed to Chris Gerber. The request for agreements between Nick Johnson and TigerSwan – contemporaneous with the time when he was posting on PA Progress - does not seek information about "conduct concerning pipeline projects in other states that are wholly unrelated to the Mariner 2 East pipeline." Please provide any responsive agreement within 15 days.

Christopher Markos, Esq.
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(ABoynton@mcneeslaw.com) <ABoynton@mcneeslaw.com>;
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Cc: Frank J. Lavery, Jr. <flavery@laverylaw.com>; Elizabeth L. Kramer
<ekramer@laverylaw.com>; Aimee Paukovits
<apaukovits@laverylaw.com>; Mindy S. Kushner
<MKushner@laverylaw.com>

Subject: RE: Gerhart, Ellen, et al. v. Energy Transfer Partners, et al. -
Defendant TigerSwan's Responses to Plaintiff's 2nd Set of Requests for
Production of Documents

I am writing to provide you with Defendant TigerSwan's Responses to
Plaintiff's 2nd Set of Requests for Production of Documents and
document production (batestamped - " DF TigerSwan 2013-2025") in
the above referenced matter.

Thank you for your attention to this matter.

Cathy

Cathleen A. Sheaffer, RP®, Pa. C.P.
Senior Paralegal

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